

JUDGE LASNIK

CC: TO JUDGE MR

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WESTERN DISTRICT OF WASHINGTON
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CR 02-00046 #00000025

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SCOTT CLANCY,

Defendant.

NO. CR 02-46L

DEFENDANT'S SENTENCING
MEMORANDUM

Scott Clancy, by his attorney, Carol Koller, submits this memorandum in support of his position that this Court should impose a term of incarceration of 29 months, a term representing the mid-range of the guidelines, taking into account the time spent in state custody on charges subsumed by this prosecution.

The defense has no material objections to the contents of the presentence report, or to the guideline calculations contained therein.

This is a tragic case for those who trusted and befriended Scott Clancy, only to learn that he used their personal information to commit fraud against them. Scott Clancy's own situation is equally tragic. At age 39, he looks back at a shattered life and a trail of alienated former friends with the deepest of remorse, and looks forward to his life after incarceration with great trepidation.

DEFENDANT'S SENTENCING
MEMORANDUM - 1
(Scott Clancy; CR02-46L)

ORIGINAL

FEDERAL PUBLIC DEFENDER
1111 Third Avenue, Suite 1100
Seattle, Washington 98101
(206) 553-1100

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1 It is likely that Mr. Clancy's childhood at the hands of a mother who was
2 episodically cruelly abusive to him, doubtless a result of her own mental illness, led to
3 the anxiety and depression from which Mr. Clancy suffers as an adult. It is probable
4 that those same childhood experiences created a behavior pattern of confused deception.
5 A child faced with random abuse must survive by avoiding abusive episodes in any way
6 at his disposal. Deception is one of the few tools available to an otherwise powerless
7 child. Sadly, Mr. Clancy carried the practice of using deception to avoid unpleasant
8 experiences into adulthood. He now uses deception to avoid the very painful anxiety
9 from which he suffers. Indeed, it appears that there is a strong link between Mr.
10 Clancy's severe anxiety, and his deceptive behavior. Mr. Clancy describes difficulty
11 facing even ordinary life challenges "head on." He knows that when faced with a
12 difficult situation, or fear that he won't be liked or accepted, his tendency is to lie. He
13 thus finds himself telling untruths about things that to others, seem unimportant. For
14 example, he has lied about his educational background and family history, because he
15 is painfully anxious that the truth makes him inadequate.

16 Mr. Clancy's dishonesty and theft which led to the instant prosecution are more
17 extreme examples of the same phenomenon. Mr. Clancy is made anxious by the fact
18 that he is not financially well off, and does not have the background or education to earn
19 a great deal of money. He sought to comfort that anxiety by acquiring goods that were
20 beyond his ability to purchase. He engaged in elaborate dishonesty to acquire the means
21 to obtain these goods. There is also an element of obsessive/compulsive behavior in Mr.
22 Clancy's acquisitive and other behavior. Jon Sandor, who still feels a fondness and
23 concern for Mr. Clancy has spoken to defense counsel at length. He has indicated that
24 Mr. Clancy used a large portion of the proceeds of his fraud to purchase more copper
25 kitchenware than any individual could use in a lifetime. Also, according to Mr. Sandor
26 and others with whom Mr. Clancy has resided, Scott Clancy demonstrates an extreme

1 need for cleanliness and order. He purchased and regularly used numerous vacuum
2 cleaners and great quantities of cleaning supplies.

3 The ultimate tragedy is that Mr. Clancy stole from others to comfort a severe
4 psychic pain. In doing so, he created a great deal of chaos and hurt in the lives of his
5 victims, and also severely worsened his own situation. For of course, having material
6 goods did not make Mr. Clancy more appealing to others, because he injured the very
7 people he was trying to impress in the process of acquiring those goods.

8 The incarceration Scott Clancy faces as a result is a far less severe consequence
9 than the daunting fact of the ruined life he must rebuild. Mr. Clancy is essentially alone
10 in the world. He describes himself as having two friends left. Of these, one was a
11 victim in this case, and has very conflicted feelings about Mr. Clancy.¹ Scott Clancy's
12 convictions have closed off the possibility of employment in many fields. He is
13 destitute. Last week, he lost his employment as a baker, after a cracked rib suffered in a
14 workplace fall rendered him unable to perform the physical tasks required by that job.
15 A spot was discovered on his lung in the course of the x-ray examination of the rib
16 injury. Further testing revealed that Mr. Clancy has contracted tuberculosis.² (See
17

18 ¹ One is Walter Metzger, the former partner who took Mr. Clancy into his home
19 when he arrived in Seattle to face these charges, after having been arrested in
20 Washington, D.C.. The other is Jon Sandor, who, despite the fact that Scott Clancy had
21 lied to him and defrauded him, took Mr. Clancy into his home when he was released
22 from the D.C. jail, with nowhere to live pending a court date in Seattle. As is evident
23 from his letter attached to the presentence report, Mr. Sandor has mixed feelings about
24 his experience with Mr. Clancy. Yet, he cares enough about him to have given him
25 shelter at a time of need, and to want to see him get help to avoid an even more painful
26 future. To that end, Mr. Sandor traveled to Seattle to visit Mr. Clancy and Mr. Metzger
in early September, and intends to continue to encourage Mr. Clancy to seek treatment
in order to avoid future episodes of criminality.

² It is likely that this infection occurred either at the D.C. Jail where Mr. Clancy
was held for several days after his arrest in Washington D.C. on the instant charges, or at
the King County jail where Mr. Clancy was incarcerated after his return to Seattle,
because King County was separately prosecuting an incident that is included in the

1 attached letter from Mary Curiel, M.D..

2 It is difficult to imagine a more shattered life. Yet, Scott Clancy has many
3 strengths, and some hope for the future. That two people who have been hurt by his
4 actions remain supportive of him is a tribute to the fact that there is much that is likable
5 about this gentleman, as he is, without embellishment. He is a very competent worker
6 in many fields. Until he was injured on the job last week, he had spent his time while
7 awaiting disposition of this case working as a baker at the Wallingford Bakery. This
8 was not a prestigious or extremely high paying job, but Scott Clancy worked at and
9 succeeded in making it a satisfying personal experience.

10 Mr. Clancy has been seeing a doctor at the Country Doctor Clinic, one of this
11 city's few sources of low cost medical care. The physician there has continued Mr.
12 Clancy on the anti-anxiety and antidepressant medications begun at the D.C. Jail.³
13 Scott Clancy feels that his medications are enabling him to confront anxiety provoking
14 situations more directly, in lieu of employing dishonesty to escape the discomfort of the
15 anxiety. To his credit, Mr. Clancy has abided by all of the conditions of pretrial release.

16 Scott Clancy does not want to continue to victimize others, or to further destroy
17 his own life. To this end, he is motivated to learn the sources of his behavior, in a
18 sincere attempt to change. This is reflected in his attached letter. While incarceration is
19 inevitable, it must be recognized that it is not the time that Mr. Clancy spends in jail that

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21 _____
22 federal prosecution, and took nearly three weeks to dismiss in favor of the federal
23 prosecution. His previous test for tuberculosis, conducted at the D.C. jail, was negative.

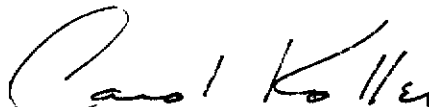
24 ³ Mr. Clancy was also started on lithium, for bipolar disorder, while at the D.C.
25 Jail. He and his current physician have agreed that he does not suffer from bipolar
26 disorder, and he is in the process of being weaned from lithium. It would appear that
this judgment is correct. Interviews with former associates of Scott Clancy do not
reveal any details indicative of mood swings, but do indicate an obsession with
cleanliness, something that is often a feature of an anxiety disorder.

1 will bring about this change. That can come only with intense, probably painful
2 psychotherapy that he will enter upon his release. Mr. Clancy realizes that he intended
3 to seek psychotherapy in the past. As is often the case with us humans, he did not stay
4 with it when it became difficult, instead convincing himself that his problems were not
5 so severe that he would again be driven to criminal behavior. He now has before him
6 the frightening proof that he was wrong, and the incentive to begin anew with his
7 determination to seek psychotherapy.

8 While the rationale for the high end sentences recommended by the probation
9 department and the government is clear, the reasoning behind these recommendations
10 ignores the reality of incarceration. The federal prison system does not help an
11 individual effect change. Incarceration can only increase the anxiety and poor self
12 esteem that contributed to Mr. Clancy committing these crimes. Moreover, Scott
13 Clancy did confess to his wrongdoing, and promptly indicated his intent to plead guilty
14 in this matter, which is indicative of his contrition and desire to begin down the path of
15 righting the wrongs he committed. For these reasons, a mid-range sentence in the
16 correct one. The middle of the range would be 30 months. However, Mr. Clancy spent
17 nearly one month (taking into account the 23 days and lost good time credit) in King
18 County custody on a case that is included in this prosecution. Thus, a sentence of 29
19 months should be imposed.

20 DATED this 16 day of September 2002.

21 Respectfully submitted,

22 

23 Carol Koller
24 Attorney for Scott Clancy
25
26

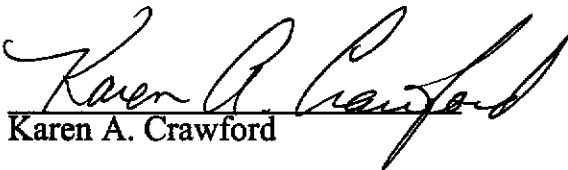
CERTIFICATE OF SERVICE

I hereby certify that on September 16 2002, I caused to be delivered by fax, hand delivered or delivered by U.S. Mail, a copy of DEFENDANT'S SENTENCING MEMORANDUM to:

Janet Freeman
Assistant United States Attorney
601 Union Street, Suite 5100
Seattle, Washington 98101-3903

Monique Neal
United States Probation Officer
701 Fifth Ave., Ste. 4100
Seattle, Washington 98104

DATED this 16 day of September 2002.


Karen A. Crawford

The Honorable Robert Lasnik
United States Courthouse
Seattle, Washington

13 September 2002

Dear Judge Lasnik:

This is one of the more daunting letters I have had to write, and I have certainly thought and re-thought its contents before I began. It is difficult to know what to say about my behavior and even more difficult to know what outcome I want from such an explanation or even if such explanation makes a difference; however it is something I wish to do and so will make an attempt

At the outset I have no excuse for my behavior. My lying and deceptions are inexcusable in their scope and breadth and are made even more so given the fact that I lied and deceived mostly people that liked and trusted me to some extent or another. This is the part of my crime that bothers me the very most as it is the one thing that I have always wanted from people: namely, their friendship, trust and respect. I lied often about myself, my family, and my past to make people like me out of some deep-seated insecurity about myself as a likeable person. This insecurity and anxiety about myself, my 'likeability' as just me, has been a powerful motivating factor in my life. Out of an anxiety that is sometimes almost paralyzing, I have lied to get out of situations, used others' identities to get credit to purchase things to prop-up my deceptions and to appear to be the person that I claimed to be. All of this behavior is wrong and has never helped to alleviate or provide a palliative to my insecurities or anxieties.

That said, I do not believe that I am without the ability to do better for myself and contribute positively to society. I do possess talents- even as I am loath to admit this. I am a compassionate person, and I do respect the pain I have caused many by my actions. I do not want to live this kind of life any longer, the last ten to 15 years have not been what I would want them to be or what they could have been.

I do not have the hubris to ask the Court for leniency in dealing with my crimes and me; the most I might request is understanding. Understanding to the extent that I really am motivated to turn myself into a person who has scruples, who doesn't need to lie to enhance a poor self-image, and who is able to have friends and people in his life who trust and like him for who he is- flaws and all I need to work hard at it with the help of professionals who can guide me through counseling and medication. I need help to learn how to trust myself at a deep level- trust that I am a good person as I am, that I can deal with the world without resorting to antisocial behavior.

I have done wrong and I am ready to be punished for it But more than punishment I ask the Court to do what it can to help me get the treatment I need so that unlike Hamlet the past need not necessarily be prologue

Sincerely,


Scott Clancy



Country Doctor
Community Clinic

COUNTRY DOCTOR

community health centers



Carolyn Downs
Family Medical Center

9-13-2002

To Whom It May Concern:

At the request of Mr. Clancy, this is a summary of the treatment that he has received at the clinic from April 2002 to the present.

Mr. Clancy has received treatment and medication for Bipolar II disorder, Anxiety Disorder and depression. He was placed on Lithium Carbonate at 600 mg per day, Buspirone Hydrochloride (Buspar) at 30 mg/day, and Celexa (antidepressant) at 15 mg/day. In subsequent evaluations, we determined that Mr. Clancy probably does not suffer from Bipolar disorder and are discontinuing his treatment with Lithium, which should end at the end of September. Since Mr. Clancy appears to be more Obsessive-Compulsive (with impulse control problems) we will continue him on Buspar and Celexa which have been shown to provide some relief from symptoms. Mr. Clancy does express that he feels better on the medications. As a Community Clinic, comprehensive psychiatric evaluations are limited, and further psychiatric evaluation and counseling of this patient is strongly recommended.

I saw Mr. Clancy most recently as a follow-up to an injury suffered while working. He reported slipping and falling and had gone to the University of Washington ER complaining of shoulder/chest pain. Upon examination and X-ray, we found a fracture of rib #4 and an older fracture of rib #11 with related shoulder soft-tissue injury and soreness. Mr. Clancy was placed on 600 mg Ibuprofen 2 times daily for one week, rest of the arm, and a restricted work schedule until the end of the month.

Radiologic finding after the initial X-ray showed a small 'granuloma' or spot in the lower quadrant of the left lung. We ordered a new X-ray, a Tuberculosis patch test (PPD), liver enzyme tests and an HIV test. Radiologic findings show the small area persistent and with a positive PPD we have started Mr. Clancy on a standard course of INH (300 mg per day for 9 months) plus a daily tablet of Vitamin B-12. There is no clinical evidence of active TB at this time. Appropriate follow-up care has also been ordered and Mr. Clancy was informed of the side-effects of the INH therapy.

Mr. Clancy has a follow-up appointment at the clinic next week for the other pending tests.

Mary Curiel, MD
dict chart



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